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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/760,095

01/16/2004

Michael D. Jenkins

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7590

05/21/2007

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EXAMINER

WEST, LEWIS G

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

05/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/760,095

Applicant(s)

JENKINS, MICHAEL D.

Examiner

Lewis G. West

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Arguments

Applicant's arguments filed March 7, 2007 have been fully considered but they are not persuasive. Applicant's rearrangement of words has done little to affect the meaning of the claim, and does not overcome the prior art rejection. Further new claims 9 and 14 are directed to substantially the same limitations.

Applicant's only real argument seems to be that the message is conveyed from a server to the waypoint, however this message is still associated with the particular waypoint in Smith. Therefore applicant's arguments are unpersuasive as the reference still reads on the claim language. Applicant having failed to overcome the rejection, this action is made final and prosecution is now closed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 9-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith, Jr. et al (US 6,836,667 B1).

Regarding claim 1, 9 and 14, Smith discloses a system for filtering messages associated with coordinate way points, the system comprising:

a mobile radio service provider network; (Col. 3 line 50-col. 4 line 5)

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a plurality of subscriber devices enabled to function with said mobile radio service provider network; (Col. 3 lines 28-37)

at least one user interface inherent to said devices for facilitating two-way communication with said network, (Col. 3 line 56-col. 4 line 3; col. 8 lines 23-27)

said devices each possessing a unique identification number; (Col. 7 lines 58-67)

said device enabled to be set to a specific area of granularity within said provider network, (Col. 5 lines 8-15)

at least one message associated with the way-point and not associated with the subscriber (Col. 7 line 44-col. 8 line 44)

wherein messages outside said area of granularity would be not be receivable to said subscriber and messages within said area of granularity would be receivable to said subscriber, (Col. 8 lines 36-50)

wherein said messages are associated with a specific coordinate waypoint and are not associated with a specific subscriber within said network. (Col. 7 line 44- col. 8 line 4) The messages are sent to any mobile in the region of the waypoint meeting the category criteria, not to a specific subscriber, and further wherein said device adapted to permit operation selected consisting of capturing said device's own instant coordinate location (clearly shown in the reference as being carried out by GPS), leaving a message associate with a specific coordinate location within said network, and accessing a message posted at a specific coordinate location within said network at least due to said user device's physical proximity to said specific coordinate location, (Col. 7 line 44-col. 8 line 44)

Regarding claim 2, Smith discloses the system according to claim 1 wherein said messages are stored in a database (450) within said network. (Col. 8 line 5-27)

Regarding claim 3, Smith discloses the system according to claim 1 wherein said devices include personal computers, cell phones, personal digital assistants, user-supported computer. (wireless mobile unit 410 see col. 7 line 53-col. 8 line 4 wherein device 410 is described a telecommunications device operating in a cellular environment identifiable by a phone number, therefore a cellular phone). Given that limitations are claimed in the alternative, only one limitation must be met to read on the claim.

Regarding claim 4, Smith discloses the system according to claim 1 wherein said devices are located within said network by a positioning algorithm based on a method selected from the group consisting of triangulation of multiple signals, signal strengths of multiple signals, time difference of arrival of different signals, angle of arrival differences of different signals, GPS signals, and combinations thereof. (Col. 4 lines 23-44) Specifically GPS is recited and given that the limitations are claimed in the alternative, only one limitation must be met to read on the claim.

Regarding claim 5, Smith discloses the system according to claim 2 wherein said mobile radio service provider network is divided up into a two-dimensional grid of grid points, said database associating a physical location of a user device with one of said grid points. (Col. 5 lines 29-41) A map is a two-dimensional representation of grid points for providing location.

Regarding claim 6, Smith discloses the system according to claim 2 wherein said mobile radio service provider network is divided up into a three-dimensional grid of grid points, said database associating a physical location of a user device with one of said grid points. (Col. 4

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lines 23-44) Global Positioning Systems (GPS) uses three dimensional grid space (latitude, longitude and altitude) to provide a 3 dimensional coordinate space location.

Claim 10, Smith discloses the messaging method according to claim 9, wherein the area of granularity is pre-set by either the network or the device. (the range of a particular waypoint is predetermined in the design of the network)

Claim 11, Smith discloses the messaging method according to claim 9, wherein the area of granularity is selectable by either the network or the device. (the area may be selected to be a single cell or multiple adjacent cells.)

Claim 12, Smith discloses the messaging method according to claim 9, wherein the time period is pre-set by either the network or the device. (A particular time of day for the message is input allowing the system to set the time period)

Claim 13, Smith discloses the messaging method according to claim 9, wherein the time period is selectable by either the network or the device. (A may be selected and input to the system)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al (US 6,836,667 B1) in view of Examiner's Official Notice.

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Regarding claim 7, Smith discloses the system according to claim 1, but does not expressly disclose a type of multiple access used. Examiner takes Official notice that one of ordinary skill in the art at the time of the invention would have used at least one of the techniques listed as those listed cover all types used for wide area cellular networks. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have a mobile radio service provider network that communicates using a protocol selected from the group consisting of CDMA, TDMA, FDMA, wide-band CDMA, as one or a combination of the techniques listed would have been implicit as at least one must be used to have more than one subscriber in a base station.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis G. West whose telephone number is 571-272-7859. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Lewis G. West
Primary Examiner
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